

# PROFESSIONAL CONDUCT COMMITTEE

Minutes of Meeting on September 26, 2001  
[Approved on October 29, 2001]

Prepared By: Robert W. Ritchie

Meeting: JSI, 44 Farnsworth Street, 7th Floor,  
Location: Boston, MA

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1. **Call to Order:** Co-chair Mark Roberts called the meeting to order at 11:00 a.m. Also present were Gail Batchelder, Janine Commerford, Lawrence Feldman, Kirk Franklin, Gretchen Latowsky, Robert Luhrs, Debbie Phillips and Debra Stake. Staff members present were Allan Fierce, Terry Wood, Brian Quinlan, and Robert W. Ritchie. Also present were Wesley Stimpson, a member of the LSP Association; and Lisa Alexander, Maria Pinaud, and Tom Potter of DEP.
  2. **Announcements:** None.
  3. **Previous Minutes:** The draft minutes of the meeting held on August 20, 2001 were approved with minor edits.
  4. **Old Business:**
    - A. **Status of Complaint Review Teams**

At Mr. Roberts' request, the chair of each CRT reported on progress made during the last month. Ms. Latowsky volunteered to be a CRT member for Complaint number 01C-001, since Ms. Commerford recused herself from working on this Complaint.

Mr. Stimpson inquired as to how many of the pending complaints have been appealed. Ms. Wood replied that consolidated complaints 00C-012 and 00C-013 have been appealed as well as complaint 99C-013.

Ms. Latowsky suggested that it would make sense to combine consolidated complaints on one line of the chart of active disciplinary cases and so moved that this should be the practice in the future. The Committee unanimously voted to combine consolidated complaints on one line of the chart of active disciplinary cases.

## B. Status of Admonition Project

Mr. Fierce stated that he sent a letter to all LSPs that had received a Request for Admonition, advising them of the status of the LSP Board's review of the admonition request. Mr. Fierce reminded all of those

present that at the last Committee meeting it was decided that the DEP would report back to the Committee whether the agency intended to submit a second batch of Admonition Requests to the LSP Board for consideration.

Ms. Pinaud stated, based on her understanding, the purpose of the Admonition Project was to raise the bar for LSP practice in Massachusetts by sending a strong message to the LSP community from the LSP Board. Ms. Pinaud noted, however, that the admonition process is taking up much more time than originally anticipated. Consequently, DEP is evaluating its role in the process to determine whether the agency will submit additional Admonition Requests to the Board.

Mr. Feldman stated that the Committee needs to have a response from DEP by the next Committee meeting because there are a number of LSPs that are waiting to hear about the admonitions filed against them.

Ms. Stake asked whether the Committee should send a further update to the LSPs who have admonition requests pending. The Committee decided that a further update was unnecessary because Mr. Fierce's letter was sent to the LSPs recently.

Mr. Feldman reiterated that this issue needs to be resolved at the October Committee meeting.

## **5. New Business:**

### **A. Complaints 01C-008 and 01C-009**

These complaints were both filed by a private citizen against two different LSPs. Both complaints concern the planting of approximately 500 willow trees by the PRP at the contaminated site without DEP approval. The PRP proposed to do the tree planting as part of a phytoremediation effort at the site. DEP staff had informed the PRP that the tree planting/phytoremediation could only be done as a Release Abatement Measure (RAM), which required the submittal of a RAM plan to DEP, DEP's approval of the plan, and a public comment period conducted in accordance with the site's Public Involvement Plan. The PRP went forward with the tree planting despite several statements from DEP that the planting of the trees as a remedial action without submittal of a RAM Plan to DEP and without public comment would constitute a violation of the MCP. DEP then issued an Administrative Order to the PRP which, among other things, required the PRP to submit a RAM Plan to DEP. In their response, the LSPs denied that they were involved with the work that resulted in the alleged violations.

Mr. Feldman moved to dismiss both complaints. Mr. Franklin seconded

the motion. The Committee then discussed the complaints. Mr. Luhrs asked whether the work that led to the alleged violations was done under the supervision of an LSP. Mr. Quinlan stated that he had spoken to DEP staff, who confirmed the LSPs' statement that they were not involved with the work. Mr. Luhrs then asked who was the party responsible for the alleged violations. Mr. Fierce replied that it would be the PRP in this case. The Committee voted unanimously to dismiss the two complaints against the LSPs.

6. **Future Meetings:** The Committee stated that the next meeting would be on October 29 at the DEP Western Regional Office in Springfield at 11:30 a.m. The Committee agreed that the November meeting would be held on November 19 at noon, possibly at Raytheon in Lexington. The Committee also agreed to meet on December 19 in Worcester, location to be announced at a later time.
7. **Adjournment:** Mr. Roberts moved to adjourn the meeting; the motion was seconded and approved, and the meeting was adjourned at approximately 11:40 a.m.